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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-210948

DATE: March 15, 1983

MATTER OF: Software Services, Inc. of Arlington

DIGEST:

Protest is dismissed as untimely where it is filed with GAO more than 10 days after notice of initial adverse agency action.

Software Services, Inc. of Arlington (SSIA), protests the award of a contract to Robert L. Rush, Inc. (Rush, Inc.) to perform front end microprocessor support for data bank projects under solicitation No. NIH-NINCDS-82-02, a small business set-aside, issued by the National Institutes of Health (NIH). SSIA asserts that Rush, Inc., was not a legal entity either during the course of negotiations or at the time of award and that Rush, Inc., was afforded favored treatment by NIH.

SSIA protested the award to NIH by letter of October 15, 1982. By letter of November 17, 1982, NIH denied the protest. SSIA then engaged in further correspondence with NIH, in particular requesting a copy of the Rush, Inc., proposal. SSIA's last such letter is dated December 31, 1982, and NIH's last response is dated January 7, 1983. SSIA's protest to GAO is dated February 26, 1983, and was filed (received) in our Office on March 1, 1983.

Under our Bid Protest Procedures, 4 C.F.R. § 21.2(a) (1982), if a protest is filed initially with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of the protester's learning of the initial adverse agency action on its protest. Here, SSIA's protest was not filed until more than 3 months later. We also note that the protester's continued pursuit of its protest with the agency despite the initial rejection of its protest does not extend the time for filing with our Office. S/S&W Landscape Maintenance, B-209964, December 22, 1982, 82-2 CPD 569.

We dismiss the protest as untimely filed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel

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